

Recordkeeping: Tedious but Oh so Important!

By Daniel Baxter, Esq.

“Recordkeeping” is not a word that attracts a lot of intellectual foot traffic towards a magazine article. However, if you’ve been able to get through the title and first sentence of this article, please read on.

A. What are California’s veterinary recordkeeping requirements?

The baseline statute for veterinary recordkeeping in California is Business & Professions Code Section 4855, which generally requires veterinarians to “keep a written record of all animals receiving veterinary services,” and delegates to the Veterinary Medical Board (VMB) the authority to promulgate regulations establishing “the minimum amount of information...to be included in written records,” as well as the duration of time for which those records must be maintained. Consistent with that delegation of authority, the VMB promulgated Title 16, California Code of Regulations, Section 2032.3 (formerly Section 2031). The requirements specified in that regulation (specifically, subdivision(a)) are both detailed and onerous (see sidebar), and direct veterinarians to “prepare a legible, written or computer generated record concerning the animal” that must be maintained “for a minimum of three (3) years after the animal’s last visit.” A clear understanding of the information required to be included under Section 2032.3(a) is imperative; thus, there is no substitute for a close review of that provision.

B. What are the consequences of a failure to comply with recordkeeping requirements?

The importance of full and accurate recordkeeping cannot be overstated, as the consequences of failing to comply with Section 2032.3’s requirements can be significant. Those potential consequences are two-fold.

1. Impairment to Defense of Clinical Complaints

First and foremost, the VMB has been loud and clear in indicating that, in undertaking investigations into clinical complaints, “if it’s not in the record, it didn’t happen.” In other words, if a client makes a complaint to the VMB giving one description of events, and the veterinarian gives a different description, the latter description had better be

specifically reflected in the written record. If it is not, then the client’s version (which usually will not be supported by documentation) will be accepted. Stated another way, a veterinarian without a written record supporting his/her rendering of events will be essentially left with no defense to a complaint.

2. Recordkeeping-related Discipline Imposed by the VMB

Second, in many VMB investigations, even those whose subject matter initially has nothing to do with recordkeeping-related issues, the eventual basis for discipline ends up being rooted in recordkeeping problems.

For example, in most complaint-driven investigations, the client complaint itself will generally have nothing to do with recordkeeping, and everything to do with perceived clinical deficiencies. However, in initiating its investigation, the first thing the VMB will request is all records pertaining to the clinical treatment out of which the complaint arises. And, the VMB investigator’s assessment of the merits of the client’s complaint will—by necessity—be based in part on the contents of those records. Even if the investigator ends up detecting no dereliction of duty from a clinical standpoint, the VMB is still able to independently mete out discipline based on a failure to comply with Section 2032.3’s recordkeeping requirements. Thus, a recordkeeping deficiency can end up being the “tail that wags the dog” of an investigation that initially had no recordkeeping component.

And, it is important to remember that in formal disciplinary actions against California veterinarians, recordkeeping-related discipline can be severe. In that regard, the VMB has adopted an expansive view as to the types of derelictions that are considered to be “unprofessional conduct,” as that term is utilized in Business & Professions Code section 4883(g). Even though the facial parameters of that term as used in the statute are directed towards conduct relating to use/abuse of controlled substances, the VMB has taken the position that recordkeeping violations can constitute

such unprofessional conduct, as well. Consistent with that viewpoint, the VMB's disciplinary guidelines (https://www.vmb.ca.gov/forms_pubs/discip_guide.pdf) state that recordkeeping violations can be met with a full menu of discipline, up to and including a \$5,000 fine and license revocation. Even the minimum penalty is specified as revocation and/or suspension stayed; two-year probation; standard terms and conditions; 30-day suspension; \$1,000 fine; and additional optional terms and conditions.

C. What other recordkeeping considerations should I keep in mind?

In addition to the above, it is important to remember that California law contains specific provisions dealing with such items as confidentiality,

disclosure, and transfer. For instance, Business & Professions Code section 4857 prohibits California veterinarians from disclosing "any information concerning an animal receiving veterinary services, the client responsible for the animal receiving veterinary services, or the veterinary care provided to an animal," except under limited circumstances. Also, the above-mentioned regulatory section (16 CCR section 2032.3) requires veterinarians to provide a summary of an animal's records to the client within five days of the client's request. That summary, in turn, must contain a specified roster of information.

In the end, while recordkeeping often takes a backseat to clinical care, veterinarians and their staff should give full attention to both. No matter how good your clinical chops are, a failure to properly document those chops could come back to haunt you. ■

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California Code of Regulations Title 16. Professional and Vocational Regulations Division 20. Veterinary Medical Board Article 4. Practice

2032.3. Record Keeping; Records; Contents; Transfer.

(a) Every veterinarian performing any act requiring a license pursuant to the provisions of Chapter 11, Division 2, of the code, upon any animal or group of animals shall prepare a legible, written or computer-generated record concerning the animal or animals which shall contain the following information:

- (1) Name or initials of the person responsible for entries.
- (2) Name, address, and phone number of the client.
- (3) Name or identity of the animal, herd, or flock.
- (4) Except for herds or flocks, age, sex, breed, species, and color of the animal.
- (5) Dates (beginning and ending) of custody of the animal, if applicable.
- (6) A history or pertinent information as it pertains to each animal, herd, or flock's medical status.
- (7) Data, including that obtained by instrumentation, from the physical examination.
- (8) Treatment and intended treatment plan, including medications, dosages, route of administration, and frequency of use.
- (9) Records for surgical procedures shall include a description of the procedure, the name of the surgeon, the type of sedative/anesthetic agents used, their route of administration, and their strength if available in more than one strength.
- (10) Diagnosis or assessment prior to performing a treatment or procedure.
- (11) If relevant, a prognosis of the animal's condition.
- (12) All medications and treatments prescribed and dispensed, including strength, dosage, route of administration, quantity, and frequency of use.
- (13) Daily progress, if relevant, and disposition of the case.